

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

**DONALD TANNEHILL, on behalf of
himself and all others similarly situated**

PLAINTIFF

v.

No. 3:19-cv-140-DPM

SIMMONS BANK

DEFENDANT

ORDER

The Court appreciates the parties' helpful joint status report, and notes the motion to amend. Tannehill's claims abated at his November 2019 death. They can be revived by a timely motion to substitute. FED. R. CIV. P. 25(a); *In re Baycol Products Litigation*, 616 F.3d 778, 785 (8th Cir. 2010); *McDonald v. Pettus*, 337 Ark. 265, 279, 988 S.W.2d 9, 16 (1999). The Court's March deadline was meant to nudge things along; it is not dispositive. The deadline for substitution remains 5 May 2020—ninety days after Tannehill's death was suggested on the record. *Atkins v. City of Chicago*, 547 F.3d 869, 873 (7th Cir. 2008). The motion to amend, *Doc. 36*, is denied without prejudice as premature. There is nothing to amend at the moment because Tannehill's claims have abated. No class has been certified. The Final Scheduling Order, *Doc. 29*, is therefore suspended and the case is stayed. The Court awaits the planned motion to substitute, which can be joined to a motion to amend that proposes the additional plaintiff, too.

So Ordered.

DP Marshall Jr.

D.P. Marshall Jr.

United States District Judge

10 March 2020